

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

ENERGY TRANSFER CRUDE OIL COMPANY, LLC	)	
	)	
	)	Docket No. 14-0755
APPLICATION PURSUANT TO SECTION 15-401	)	
OF THE COMMON CARRIER	)	
BY PIPELINE LAW AND SECTIONS 8-503	)	
AND 8-509 OF THE PUBLIC UTILITIES ACT	)	
AND FOR A CERTIFICATE IN GOOD STANDING	)	
AND RELATED AUTHORITY TO CONSTRUCT AND	)	
OPERATE A PETROLEUM PIPELINE AS A COMMON	)	
CARRIER PIPELINE AND WHEN	)	
NECESSARY TO TAKE PRIVATE PROPERTY AS	)	
PROVIDED BY THE LAW OF EMINENT DOMAIN	)	

**REBUTTAL TESTIMONY OF**

**TRACEY MCDANELD**

**ON BEHALF OF**

**ENERGY TRANSFER CRUDE OIL COMPANY, LLC**

**ETCO EXHIBIT 5.6**

**MAY 1, 2015**

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**I. WITNESS INTRODUCTION AND PURPOSE OF TESTIMONY**

**Q. Please state your name, present position and business address.**

A. My name is Tracey McDanel. I am the Right-of-Way Field Supervisor of KP Land Services. KP Land Services is the Right of Way Service Company contracted by Energy Transfer Crude Oil Company, LLC ("ETCO"), the Applicant in this proceeding, for the Illinois new build portion of the Energy Transfer Crude Oil Company project. My business address is 321 West Main Street, Salem, Illinois 62881.

**Q. Have you previously submitted prepared testimony and exhibits in this proceeding?**

A. Yes, I have previously submitted prepared direct testimony, dated January 21, 2015, which is identified as ETCO Exhibit 5.0, and accompanying exhibits identified as ETCO Exhibits 5.1 through 5.5. In my direct testimony, I described the processes and procedures ETCO is using to contact landowners and to negotiate with them for the acquisition of easements needed for the proposed ETCO Pipeline.

**Q. What is the purpose of your rebuttal testimony?**

A. The purpose of my rebuttal testimony is to present updated information regarding ETCO's communications and negotiations with landowners, to describe ETCO's attempts to acquire easements through the negotiation process. My rebuttal testimony will demonstrate that ETCO has engaged in extensive, reasonable efforts to acquire the necessary easements through good-faith negotiations and voluntary agreements.

**Q. In addition to your prepared testimony, which is identified as ETCO Exhibit 5.6, are you sponsoring any other exhibits?**

A. Yes, I am also sponsoring exhibits identified as ETCO Exhibits 5.7 and 5.8. ETCO Exhibit 5.7 lists the parcels on the proposed route of the ETCO Pipeline for which

easements are required, and sets forth, as of April 30, 2015, the number of contacts that ETCO has had with the owners of each parcel and the status of negotiations for acquisition of an easement on that parcel. ETCO Exhibit 5.8 provides examples of specific concerns raised by individual landowners during the negotiation process that ETCO has been able to accommodate and resolve.

## **II. LANDOWNER CONTACTS AND NEGOTIATIONS AND EASEMENTS ACQUIRED**

**Q. What is the total number of easements that ETCO will require for the new build portion of the ETCO Pipeline in Illinois from Patoka, Illinois, to the point of interconnection with the existing Trunkline Pipeline?**

A. Based on the route of the new build portion presented by Mr. Broad in his Additional Supplemental Direct Testimony (ETCO Exhibits 2.14-2.15), easements and/or temporary workspace agreements on a total of 161 parcels are required. ETCO Exhibit 5.7 lists the 161 parcels.

**Q. How many of the easements and/or temporary workspace agreements for the 161 parcels has ETCO acquired?**

A. As of April 30, 2015, through negotiations with landowners, ETCO has successfully acquired easements and/or temporary workspace agreements for 65 of the 161 parcels. This represents 40% of the required easements or agreements. ETCO Exhibit 5.7 identifies the 65 parcels for which easements and/or temporary workspace have been acquired.

**Q. When did ETCO and its land agents begin contacting landowners on the new build portion of the route in Illinois for the purposes of attempting to acquire easements through negotiations?**

47 A. ETCO and its land agents began contacting landowners on the new build portion of the  
48 route in Illinois for the purpose of attempting to acquire easements in late October and  
49 early November 2014.

50 **Q. Were these the first contacts that ETCO had with landowners along the proposed**  
51 **route of the new build portion of the ETCO Pipeline?**

52 A. No. As I indicated in my direct testimony, during 2013, when the pipeline project was  
53 originally under consideration by a predecessor company to ETCO, many landowners  
54 were contacted for the purpose of obtaining survey access to their properties. In 2014,  
55 when development work on the project resumed, many landowners were contacted either  
56 for a second time, or for the first time, concerning survey access. These additional  
57 contacts to obtain survey access occurred during the second half of 2014. As a result of  
58 these contacts in 2013 and 2014 and continuing efforts in 2015, ETCO has obtained  
59 survey permission for 159, or 98.75%, of the parcels along the new build portion of the  
60 route. In other words, there are only 2 parcels for which ETCO has not obtained survey  
61 access.

62 **Q. Of the remaining 96 parcels for which easements and/or temporary workspace**  
63 **agreements are needed, how many landowners have been contacted for the purpose**  
64 **of initiating negotiations??**

65 A. As of April 30, 2015, the landowners of all 96 parcels have been contacted for the  
66 purpose of initiating negotiations to acquire easements. This total includes landowners  
67 who advised that they have retained counsel to represent them in the negotiation of an  
68 easement, where the attorney has been contacted. ETCO Exhibit 5.7 shows the date on  
69 which each landowner was mailed the notification letter specified in the Commission's

70 regulations, the date of the initial contact thereafter with the landowner to initiate  
71 negotiations, and all subsequent contacts with the owner of each parcel. As shown on the  
72 exhibit, the status for each parcel is either "Easement Acquired" or "Negotiations  
73 Ongoing" with an offer made.

74 **Q. How many contacts have occurred with these landowners?**

75 A. As shown on ETCO Exhibit 5.7, the number of contacts with the owners of each  
76 remaining parcel has ranged from 6 contacts to 30 contacts. These totals include in-  
77 person meetings, discussions by telephone, communications by letter or by e-mail, and  
78 contacts with the landowner's attorney if the landowner has retained an attorney. Not  
79 counting the mailing of the initial notification letter, ETCO has had at least 5 contacts  
80 with the owners of every one of the parcels for which an easement and/or temporary  
81 workspace agreement has not been obtained. As shown on ETCO Exhibit 5.7, for the  
82 vast majority of these parcels, we have had 10 or more contacts with the landowners.

83 **Q. For how many of the 96 parcels for which an easement agreement and/or temporary**  
84 **workspace agreement has not yet been obtained has ETCO made an offer to acquire**  
85 **the easement?**

86 A. As of April 30, 2015, ETCO has made written offers to the owners of all 96 of the parcels  
87 for which an easement and/or temporary workspace agreement has not been obtained.

88 **Q. How many land agents does ETCO have actively working on contacting landowners**  
89 **and negotiating with them to acquire easements?**

90 A. Beginning in late November 2014 and continuing to the date of my rebuttal testimony,  
91 ETCO has had 4 land agents from KP Land Services assigned to contacting and working

with landowners to acquire easements. This means that, on average, each land agent has been responsible for contacts and negotiations for approximately 40 parcels.

**Q. Has ETCO explained its offer of compensation to each of the remaining landowners to whom it has made offers?**

A. Yes. ETCO has explained its offer of compensation to each landowner and has also explained that the offer is at or above fair market value and the basis of the fair market value on which the offer is based. ETCO is offering to pay full fee value for both any fee interests in land and for permanent easements used for the right-of-way. ETCO is also offering to pay 50 percent of fair market value for temporary workspace easements. ETCO has explained to landowners that the fair market value estimates on which the offers are based, are based on a market study of land values in Marion, Clay and Wayne Counties conducted by the real estate appraisal firm of Allen, Williford and Seale, Inc. As I described at lines 231-242 of my direct testimony, ETCO's compensation offers for easements are based on Allen, Williford and Seale's estimate for land that is "90% Tillable & Greater" with a productivity index of 100.1 to 108.0, which provides the highest value for the landowners. ETCO has also described to landowners its proposals for compensating landowners for crop losses and other losses and damages incurred by the landowner due to construction and maintenance of the pipeline, which I described at lines 243-250 of my direct testimony.

In addition, as I described in my direct testimony at lines 212-214, with each offer, ETCO has provided a legal description and property sketch identifying the extent and placement of the pipeline and/or temporary workspace easements on the landowner's property. ETCO has also explained to landowners the nature of the

construction work that ETCO will perform on the landowner's property in installing the pipeline.

All offers are based on ETCO's Illinois easement form, which was provided as ETCO Exhibit 5.1 to my direct testimony (as modified based on individual landowner negotiations).

**Q. Are the offers of compensation to the remaining landowners comparable to offers made to similarly situated landowners?**

A. Yes. As I stated above, ETCO is using the findings of a market study conducted by Allen, Williford and Seale, Inc., as the basis for compensation offers for the easements. ETCO has offered each landowner full market value based on the market study. In addition, ETCO has offered to all landowners to compensate them fully for any non-restorable incidental damages, such as loss of marketable trees and crop losses incurred during and after construction of the pipeline; and to restore any area affected by construction to reflect its pre-existing status as fully as possible.

**Q. Has ETCO made an effort to address specific concerns of landowners affected by the project?**

A. Yes. Each specific concern or request is reviewed on a case by case basis. Where specific concerns or requested route deviations are not possible, ETCO provides the landowner with a very detailed explanation as to the reasons we are unable to accommodate the request.

**Q. Has ETCO received many requests from landowners located on the new build portion of the proposed route to alter the proposed location of the pipeline on the landowner's property?**



A. No, it has not. Although, as Mr. Broad previously described on ETCO Exhibit 2.11, ETCO has made minor revisions to the route, almost all of these revisions were implemented to address environmental or constructability issues. ETCO has received very few requests from landowners to change the proposed route of the pipeline. I attribute this to two factors: first, for most of its route, the new build portion of the ETCO Pipeline closely parallels the right-of-way of an existing pipeline. Second, during the initial outreach activities with landowners in 2013 and earlier in 2014 for the purpose of obtaining survey permission, ETCO was able to learn of landowner concerns and take them into account in developing the proposed route.

**Q. Can you provide examples of specific concerns raised by individual landowners that ETCO has been able to address and resolve?**

A. Yes. I have prepared ETCO Exhibit 5.8 which provides a number of examples of specific concerns raised by landowners during negotiations and explains how ETCO has been able to accommodate these requests.

**Q. Do you believe future negotiations with the landowners of the remaining 96 parcels will lead to negotiated agreements for all the easements and/or temporary workspace needed for the ETCO Pipeline?**

A. ETCO will continue to assiduously negotiate with the remaining landowners or their representatives in an effort to obtain easements through negotiated agreements. As Mr. Mahmoud stated in his direct testimony (ETCO Exhibit 1.0), ETCO prefers to acquire all easements through negotiations and voluntary agreements with landowners, and does not wish to use eminent domain authority, due to its cost and potential impacts on the project construction schedule. However, based on my experience, it is reasonable to expect that

despite our best efforts, we will not be able to acquire 100 percent of the necessary easements and temporary workspace agreements through negotiations.

**Q. Do you have specific examples of negotiations with landowners that indicate that ETCO will not be able to obtain 96 percent of the remaining required easements and/or temporary workspace agreements through negotiations?**

A. Yes, the owners of 19 parcels who are negotiating together have made a counter offer to ETCO's original offer that is almost two times ETCO's offer. In addition, although negotiations with other landowners seem to be proceeding reasonably at this point, experience tells me that negotiations with some portion of these landowners may reach an impasse.

**Q. Does this conclude your prepared direct testimony?**

A. Yes.